REMARKS

Claims remaining in the present patent application are Claims 1 – 24. Applicants respectfully request reconsideration of the above captioned patent application in light of the following remarks.

Response to Arguments

In the "Response to Arguments" section 3.7, the rejection argues, "Multer does not criticize, discredit, or discourage the application of its user information to be utilized for a device." Per *In re Haruna*, 249 F.3d 1327, 58USPQ2d 1517 (Fed. Cir. 2001), "A reference may be said to teach away when a person of ordinary skill, upon reading the reference...would be led in a direction divergent from the path that was taken by the applicant." As Multer teaches synchronization based on a fundamentally different accounting organization, Applicants respectfully assert that one of ordinary skill "would be led in a direction divergent from the path that was taken by the applicant" and hence Multer teaches away from the present claimed embodiments.

Moreover, the proposed modification of Multer such that Multer performs accounting on a device basis, as claimed, must fundamentally change the principle of operation of Multer, as the taught "users" are fundamentally different from the recited "devices." Per *In re Ratti*, 270 F.2d 810, 123 USPQ

349 (CCPA 1959), "if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious."

In addition, the "Response to Arguments" section fails to address Applicants' argument that Multer in view of Coppinger fails to teach or suggest an "account… describing a complement of information."

In the "Response to Arguments" section, the rejection argues, '[t]he accounting information maintained for the user can be application and application version information." Applicants respectfully traverse. While the cited portion of Multer may discuss applications, Multer is silent as to the claimed limitation of "information is a version of an application program." The "version number" taught by Multer is applied by Multer: "[d]evice engine 860 further includes a versioning module which applies a version number per object in the data package" (column 12, lines 10-12, emphasis added). Thus, Multer applies a "version number" to all data objects, and has nothing whatsoever to do with a version of an application program, as recited.

Multer further fails to disclose that an application program on multiple devices must be, or is somehow maintained as, identical.

In the "Response to Arguments" section 3.4, the rejection argues that "information is on a remote server... and therefore is new." Herein, the rejection fails to appreciate the goals and processes of synchronization. For example, it is quite possible for information to be created and/or updated on a device, e.g., a PDA. For example, a user can update a phone number for a contact. This information is new, and not on the server. In fact, the contact phone number on the server is old, and outdated. Thus, the rejection's argument is incorrect.

In the "Response to Arguments" section 3.3, the rejection argues, "[i]t is not a requirement to disclose a token, when the prior art named entity, the datapack, performs an equivalent function." Applicants reiterate that the recited "token" and the taught "datapack" are not analogous, and do not perform the same functions. As recited by Claim 2, a token identifies specific information and "causes said account to be modified by said remote server." In contrast, Multer teaches, "[a] DataPack essentially contains a sequence of transactions describing changes to information." Thus, a token initiates, while a datapack records, after the fact. The two terms describe very different entities, and are not equivalent. The rejection argues "there is no disclosure within the prior art that the datapack is an after the fact entity." Nor is there

any disclosure that the datapack causes any action, let alone the recited account modification.

35 U.S.C. § 103

Claims 1-24 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Multer et al. (US# 6,757,696 B2, "Multer") in view of Coppinger et al. (US 6,757,696, "Coppinger"). Applicants have carefully reviewed the cited references and respectfully assert that embodiments of the present invention as recited in Claims 1-24 are patentable over Multer in view of Coppinger.

With respect to Claim 1, Applicants respectfully assert that Multer fails to teach or suggest the claim limitation of an "account stored on said remote server, said account reserved for a second mobile computing device" as recited by Claim 1. The rejection concedes that Multer fails to disclose this claimed limitation.

However, Multer does not merely fail to disclose this claimed limitation. Multer actually teaches away. As taught by Multer in column 17 lines 18-20, *inter alia*, an "information store is maintained on a user-by-user basis" (emphasis added). The rejection itself characterizes Multer as teaching "user

accounting information for each user" (page 4 "regarding Claim 1," emphasis added).

Applicants respectfully assert that one of ordinary skill in the art would understand that there is a fundamental difference between the taught user-centric information and the recited "account reserved for a… device." For example, a user can have multiple devices capable of synchronization, e.g., mobile phone, MP3 player, personal digital assistant, etc. As taught by Multer, information is stored on a user basis. In contrast, the instant limitation recites an account on a device basis.

Consequently, the fundamental organization and principles of operation of Multer are quite different from embodiments of the present invention that recite information storage and/or accounting on a device basis, as recited by Claim 1. Per *In re Haruna*, 249 F.3d 1327, 58USPQ2d 1517 (Fed. Cir. 2001), "A reference may be said to teach away when a person of ordinary skill, upon reading the reference...would be led in a direction divergent from the path that was taken by the applicant." As Multer teaches synchronization based on a fundamentally different accounting organization, Applicants respectfully assert that one of ordinary skill "would be led in a direction divergent from the path that was taken by the applicant" and hence Multer teaches away from the present claimed embodiments.

For this reason, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

Even though Multer teaches away from this claimed embodiment, the rejection introduces Coppinger to introduce missing teachings. The rejection alleges that Coppinger teaches "accessing an account stored on the remote server," cited to [0059]. However, Coppinger teaches "[t]o register a wireless device, an account is created [0059, emphasis added]. Thus, the cited portion merely teaches creation of an account. Coppinger describes some information that may be posted to the account, including:

> the date, the time of day, the operator's identification, a password to be used by the user of the wireless device, type and subtype of wireless device (e.g., cell phone with email capability), features of the wireless device not implicated by the model number (e.g., already installed software, memory size, etc.), the wireless address of the device (e.g., a telephone number, network node address, IP address, email address, or group address).

Coppinger fails to teach that the account "describ(es) information that is not stored in the second mobile computer device." In fact, the account taught by Coppinger is for a single wireless device, and has absolutely nothing to do with a second wireless device.

As Coppinger fails to correct the deficiencies of Multer, nor ever to teach that which is alleged by the rejection, Applicants respectfully assert that Claim 1 overcomes the rejections of record, and respectfully solicit allowance of this Claim.

Moreover, Coppinger fails to teach synchronization between a wireless device and a server. See Table 1 (page 3) describing transactions between wireless device(s) in communication with a server. As Coppinger fails to teach synchronization between a wireless device and a server, Coppinger fails to support the modification proposed by the rejection. For this further reason, Applicants respectfully assert that Claim 1 overcomes the rejections of record, and respectfully solicit allowance of this Claim.

Still further, Coppinger teaches wireless synchronization directly between wireless devices, bypassing a server See Table 1 (page 2) describing transactions between wireless devices. Thus, in teaching direct wireless to wireless synchronization, Coppinger actually teaches away from embodiments in accordance with the present invention, and Multer, that recite server-based synchronization. Per *In re Haruna*, 249 F.3d 1327, 58USPQ2d 1517 (Fed. Cir. 2001), "A reference may be said to teach away when a person of ordinary skill,

upon reading the reference...would be led in a direction divergent from the path that was taken by the applicant."

Applicants respectfully assert that in consideration of Coppinger's teachings of direct wireless to wireless synchronization, one of ordinary skill in the art would be taught away from embodiments in accordance with the present invention that recite server based synchronization, for example as recited in Claim 1.

For this still further reason, Applicants respectfully assert that Claim 1 overcomes the rejections of record, and respectfully solicit allowance of this Claim.

In addition with respect to Claim 1, Multer teaches, "the storage server will be checked to determine whether a new version of the data exists on the storage server (column 34, lines 24-26). In other words, Multer teaches determining the possible existence of new information as a part of the synchronization process.

In contrast, Claim 1 recites that such new information, "not stored in said second mobile computing device," is stored on a server. By teaching determining the existence of new information is a part of the synchronization

process, Multer teaches a totally different and differentiated method from the recited storage of information "not stored in said second mobile computing device" as recited by Claim 1.

For this further reason, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

In addition with respect to Claim 1, Applicants respectfully assert that Multer fails to teach or suggest the claim limitation of "describing information that is not stored in said second mobile computing device" as recited by Claim 1. As recited, embodiments of the present invention in accordance with Claim 1 describe information that is not stored in said second mobile computing device. In contrast, Multer teaches storage of "a user's entire file system tree" (column 33, line 4, *inter alia*). By teaching storage of all of a user's data, including data that may be stored on the remote device, Multer actually teaches in direct opposition to the recited limitation of storing a "information that is not stored in said second mobile computing device" as recited by Claim 1.

For this additional reason, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

Still further with respect to Claim 1, Applicants respectfully assert that Multer fails to teach or suggest the claim limitation of "modifying said account to identify an information that resides on said remote server but not on said second mobile computing device" as recited by Claim 1. For example, Multer teaches, "(after a device connects) the storage server will be checked to determine whether a new version of the data exists on the storage server" (column 34 lines 23-26, emphasis added). Thus, in contrast to the recited limitation of Claim 1, the system of Multer does not know whether information resides on a device until the device connects to the server. Thus, Multer does not teach or suggest modifying an account to identify information "not stored in said second mobile computing device" as recited by Claim 1.

For this still further reason, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

Further still with respect to Claim 1, Applicants respectfully assert that Multer does not teach or suggest the claim limitation of "describing information that is not stored in said second mobile computing device" as recited by Claim 1. As described previously, and as recognized by the rejection, Multer operates on

a user basis. Consequently, Multer fails to teach or suggest the recited device of the instant limitation.

Still yet further with respect to Claim 1, Applicants respectfully assert that Multer in view of Coppinger does not teach or suggest the claimed limitation of:

> said remote server automatically determining from said account that said information is new to said second mobile computing device, and in response to said determining, automatically downloading said information to said second mobile computing device

as recited by Claim 1. In contrast, Multer teaches a conventional synchronization in which device data is compared to a user's complete data set to determine any new information. Consequently, Multer teaches determining that information is new based upon interaction with the (second) device, in contrast to the recited "determining from said account."

Coppinger is not alleged to correct this deficiency of Multer, and Applicants respectfully further assert that Coppinger does not correct this deficiency of Multer. For this still yet further reason, Applicants respectfully assert that Claim 1 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

Claims 2-11 depend from Claim 1. Applicants respectfully assert that these Claims overcome the rejections of record as they depend from an allowable base claim, and respectfully solicit allowance of these Claims.

With respect to Claim 2, Applicants respectfully assert that Multer does not teach or suggest the claim limitation of "said remote server receiving a token identifying said information and said second mobile computing device, and wherein said token causes said account to be modified by said remote server" as recited by Claim 2. Applicants respectfully assert that Multer does not even utilize the word "token" or similar terms.

Moreover, Applicant respectfully asserts that the rejection improperly equates Multer's "datapack" with the recited token. Multer teaches that a datapack is "a compacted and encrypted Change Log" (column 16 line 43). For example, a datapack records, or "logs" changes. Applicants respectfully assert that one of ordinary skill in the art would understand a fundamental difference between the recited "token" and the taught "change log." Moreover, Multer fails to teach any action caused by the datapack, in contrast to the claimed limitation "wherein said token causes" as recited by Claim 2.

For this additional reason, Applicants respectfully assert that Claim 2 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

Further with respect to Claim 2, the rejection asserts that Multer column 37, lines 62-65 teaches the recited "token." Applicants respectfully traverse. The cited portion of Multer teaches, "[a] DataPack essentially contains a sequence of transactions describing changes to information." Applicants respectfully assert that this cited teaching as well as the whole of Multer fails to teach or suggest the recited token that identifies said second mobile computing device and causes said account to be modified. Multer is completely silent as to these recited attributes of a token.

For this further reason, Applicants respectfully assert that Claim 2 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

With respect to Claim 4, Applicants respectfully assert that Multer does not teach or suggest the claim limitation of "wherein said information is a version of an application program" as recited by Claim 4. Applicants respectfully assert that Multer is silent as to synchronization of Application programs. Applicant respectfully asserts that the rejection improperly equates

Multer's "versioning module" with the recited "application program." Multer teaches, "a versioning module... applies a version number per object in the data package" (column 12 lines 10-12). Applicants respectfully assert that the taught applying a version number fails to teach or suggest the recited "application program" to one of ordinary skill in the art.

For this additional reason, Applicants respectfully assert that Claim 4 overcomes the rejection of record, and respectfully solicit allowance of this Claim.

With respect to Claim 12, Applicants respectfully assert that Claim 12 overcomes the rejections of record for at least the rationale presented previously with respect to Claim 1. For these reasons, Applicants respectfully solicit allowance of this Claim.

Claims 13-20 depend from Claim 12. Applicants respectfully assert that these Claims overcome the rejections of record as they depend from an allowable base claim, and respectfully solicit allowance of these Claims.

With respect to Claim 13, Applicants respectfully assert that Claim 13 overcomes the rejections of record for at least the rationale presented previously

with respect to Claim 2. For this additional reason, Applicants respectfully solicit allowance of this Claim.

With respect to Claim 15, Applicants respectfully assert that Claim 15 overcomes the rejections of record for at least the rationale presented previously with respect to Claim 4. For this additional reason, Applicants respectfully solicit allowance of this Claim.

With respect to Claim 21, Applicants respectfully assert that Claim 21 overcomes the rejections of record for at least the rationale presented previously with respect to Claim 1. For these reasons, Applicants respectfully solicit allowance of this Claim.

Claims 22-24 depend from Claim 21. Applicants respectfully assert that these Claims overcome the rejections of record as they depend from an allowable base claim, and respectfully solicit allowance of these Claims.

CONCLUSION

Claims remaining in the present patent application are Claims 1 – 24. Applicants respectfully request reconsideration of the above captioned patent application in light of the remarks presented herein.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Please charge any additional fees or apply any credits to our PTO deposit account number: 504160.

Respectfully submitted,

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